

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SOVERAIN SOFTWARE LLC,

Plaintiff,

v.

CDW CORPORATION,

NEWEGG INC.,

REDCATS USA, INC.

SYSTEMAX INC.,

ZAPPOS.COM, INC.,

REDCATS USA, L.P.,

THE SPORTSMAN'S GUIDE, INC.,

AND

TIGERDIRECT, INC.,

Defendants.

Case No. 6:07-CV-00511-LED

**PLAINTIFF SOVERAIN SOFTWARE LLC'S STIPULATION AND
AGREED MOTION TO SUBSTITUTE ORDER OF DISMISSAL**

WHEREAS, Plaintiff Soverain Software LLC and Defendant Zappos.com, Inc. ("Zappos") previously moved jointly for entry of an Order of Dismissal Without Prejudice in this action;

WHEREAS, on December 2, 2008, the Court entered the requested Order of Dismissal Without Prejudice (Docket No. 169);

WHEREAS, Plaintiff and Zappos now agree that this Court may substitute for the prior Order of Dismissal Without Prejudice an Order of Dismissal With Prejudice;

NOW, THEREFORE, Plaintiff and Zappos stipulate and agree, subject to approval of the Court, that:


1. Plaintiff's complaint against Zappos is now dismissed with prejudice.

2. Zappos's counterclaims against Plaintiff are now dismissed with prejudice.

3. Each party shall bear its own attorney's fees, expenses and costs.

Plaintiff and Zappos further request that the Court substitute for the prior Order of Dismissal Without Prejudice the accompanying Order of Dismissal With Prejudice.

STIPULATED AND AGREED TO:



Kenneth R. Adamo (by T.L. Giannetti)
State Bar No. 00846960 w/permission
Lead Attorney
Email kradamo@jonesday.com
JONES DAY
222 East 41st Street
New York, New York 10017-6702
Telephone: 212-326-3939
Facsimile: 212-755-7306



Thomas L. Duston
Email: tduston@marshallip.com
Marshall, Gerstein & Borun LLP
233 S. Wacker Dr., 6300 Sears Tower
Chicago, Illinois 60606
Telephone: 312-474-6300
Facsimile: 312-474-0448

Attorneys for Zappos.com, Inc.

Attorneys for Soverain Software LLC

CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 28th day of January 2010. .

/s/ Thomas L. Giannetti

Thomas L. Giannetti